

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RALPH DALE ARMSTRONG,

ORDER

Plaintiff,

12-cv-426-bbc

v.

JOHN I. NORSETTER, MARION G. MORGAN,
and KAREN D. DAILY,

Defendants.

Plaintiff Ralph Dale Armstrong is suing John Norsetter, Marion Morgan and Karen Daily for destroying potentially exculpatory evidence in the context of a criminal prosecution against plaintiff. In an order dated July 29, 2016, dkt. #224, I denied these defendants' motions for summary judgment. Now defendant Morgan has filed an interlocutory appeal on the ground that she is entitled to qualified immunity. Dkt. #225. Accompanying the notice is a motion to stay proceedings against her pending appeal. Dkt. #228.

Although Morgan acknowledges in her motion that she is not entitled to a stay unless she has a nonfrivolous argument for a qualified immunity defense that does not rely on a factual dispute, Apostol v. Gallion, 870 F.2d 1335, 1337 (7th Cir. 1989), she does not explain the grounds for her appeal in her motion. Particularly because the Court of Appeals for the Seventh Circuit has already rejected a qualified immunity defense raised by the other parties, Morgan's failure to explain her reasoning is surprising.

Accordingly, defendant Morgan's motion to stay, dkt. #228, is DENIED without prejudice to her refiling a motion with a developed argument.

Entered this 2d day of August, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge